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Chapter 6

The Copyright Office

Fiscal 1972 was a year of renewed hope and several important developments in copyright. Hope for passage of the copyright revision bill was spurred by assurances of further action in the next Congress. A significant enactment added a new class of copyrightable material—sound recordings—to the present law. Revisions of the Universal Copyright Convention and of the Berne Convention were adopted at diplomatic conferences in Paris. A new register of copyrights was named. And strides were taken toward greater efficiency and, ultimately, automation of some of the main operations of the Copyright Office.

GENERAL REVISION OF THE COPYRIGHT LAW

The bill for the general revision of the copyright law, which was passed by the House of Representatives five years ago and has been pending in the Senate since then, received a boost when Senator John L. McClellan, chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee, indicated on June 20, 1972, that he knew of no reason why the Subcommittee could not promptly report a revised bill in the next Congress. Senator McClellan made the statement on introducing a new measure, S.J. Res. 247, to extend for two more years the duration of certain renewed copyrights. He pointed out that progress by the Congress on the revision bill has been delayed by the copyright and regulation ramifications of the cable television controversy pending before the Federal Communications Commission, but that completion of the commis-

sion's proceedings and its recent adoption of new rules had opened the way for the copyright bill. He stated that a modified version of the bill would be introduced in the 93d Congress and that he intended to bring the bill to the floor of the Senate at the earliest feasible time.

Copyright for Sound Recordings

On October 15, 1971, President Richard M. Nixon approved a measure amending the copyright law by making published sound recordings copyrightable under certain conditions, and by providing additional sanctions for infringement—including criminal prosecution in certain cases—where copyrighted musical works are unlawfully used on sound recordings.

By the terms of this enactment, Public Law 92-140, a sound recording may be subject to statutory copyright protection if the sounds constituting the recording as published were first fixed on or after February 15, 1972, and if the sound recording is published with a notice of copyright in the form prescribed by the law. This act, whose provisions were taken in substance from the general revision bill, was enacted to combat the widespread and systematic piracy that had seriously jeopardized the market for legitimate tapes and discs. It provides for the protection of sound recordings against their unauthorized duplication and distribution to the public. To be subject to protection under this enactment, the recording must have been published with a special form of copyright notice, consisting of the symbol ©, the

year of its first publication, and the name of the copyright owner of the sound recording.

This measure, which adds a new category of copyrightable material to the statute for the first time in half a century, required considerable preparation by the Copyright Office. The Regulations of the Copyright Office were amended; a new application, Form N, was printed and copies distributed for use in making registrations; printed information circulars and announcements were issued; and physical facilities for the handling and examination of the applications and deposits were prepared.

The new law became effective on February 15, 1972. During the remainder of the fiscal year, registrations were made for 1,141 sound recordings, and it is expected that an appreciably larger number will be registered in the next fiscal year. Among the inquiries and legal problems generated by the law are the scope of the sound recording copyright, the relationship of that copyright to the underlying musical, literary, or dramatic work, and the copyrightability of various "new versions" of previous recordings.

When registration has been made and processing in the Copyright Office completed, the deposit copies of the recordings are transferred to other departments of the Library of Congress, where they are available for addition to the collections.

NEW REGISTER OF COPYRIGHTS NAMED

Abraham L. Kaminstein retired as register of copyrights on August 31, 1971, after 10 years in that office. His achievements will undoubtedly have a permanent influence on the course of both domestic and foreign copyright. He carried the program for the general revision of the copyright law, begun in 1955, through a decade of development toward enactment, and his accomplishments in international copyright, culminating in the revision of the Universal Copyright Convention adopted at Paris on July 24, 1971, were of outstanding significance. Upon his retirement, Mr. Kaminstein was appointed to a three-year term as honorary consultant in domestic and international copyright affairs.

George D. Cary was named by the Librarian of Congress to succeed Mr. Kaminstein as register of

copyrights. Mr. Cary, who has been on the staff of the Copyright Office for almost 25 years, had been deputy register of copyrights since 1961.

STEPS TOWARD AUTOMATION

Studies looking toward the automation of some of the operations of the Copyright Office have been going on for several years. The legislation making sound recordings the subject of registration presented an opportunity to use this class of material as a pilot project for bringing together certain examining and cataloging operations and for processing the cataloging records on terminals linked to a computer. Although experimentation with this new mode of operation continues, it seems clear that the *Catalog of Copyright Entries* for sound recordings and the cards for the copyright card catalog can be produced by computer. Meanwhile, study also continued on the application of automation to other types of material and other areas of operations.

Toward the end of the fiscal year, arrangements were completed for a study of the Copyright Office operations by a private management consulting firm. The goal of the study is to identify problem areas, propose improved methods for dealing with them, and generally to recommend ways for the office to meet more effectively a workload that has increased at the rate of more than 4 percent a year.

THE YEAR'S COPYRIGHT BUSINESS

Total registrations for fiscal 1972 amounted to 344,574. This figure not only represents an increase of 4.5 percent over the previous fiscal year but also reflects a growth of 35 percent during the last decade.

For the first time registrations in any single class during a given year exceeded 100,000, books reaching a total of 103,321. Both the other two major classes, periodicals and music, also showed a slight growth, registrations for music increasing by 2 percent to 97,482 and periodical registrations increasing by less than 1 percent to 84,686. Motion picture registrations in classes L and M rose 34 percent to a total of 3,204, owing probably to the use of the revised motion picture agree-

ment. Renewals recovered from a decline in the previous year and climbed 12 percent to a total of 23,239.

The volume of recordings of notices of intention to use musical compositions on sound recordings was by far the largest to date for a single year. Recordation was made for more than 41,700 titles, as against a total of 976 in fiscal 1971 and 83 in 1970. This increase was largely the result of recordings by duplicators of discs and tapes seeking, by means of the compulsory licensing provisions of the statute, to avoid liability under the section of Public Law 92-140 which grants additional remedies against the unlawful use of musical compositions on sound recordings.

There were only two areas of significant decrease. Commercial prints and labels fell 7 percent to 4,118, the lowest since 1940, when this category of material first became registrable in the Copyright Office; and registrations of foreign books (excluding ad interim registrations) decreased 8 percent to a total of 5,408.

Like registrations, fees earned for copyright services reached a new high of over \$2,177,000. The Service Division handled for deposit more than 126,143 separate remittances and processed 442,759 pieces of incoming and 413,820 pieces of outgoing mail—over 3,500 every working day. The figure for incoming mail is particularly significant, since it not only is a new high but is also 18 percent more than last year.

Of the 391,532 applications for registration and documents for recordation handled in the Examining Division, 85 percent were acted on without correspondence. Rejections amounted to 2.5 percent, while the remaining 12.5 percent required correspondence which led to favorable action.

The Cataloging Division prepared a total of some 2,117,700 catalog cards. Of these 871,900 were added to the copyright card catalog, 902,700 were used to produce the printed *Catalog of Copyright Entries*, 75,700 were supplied to other departments of the Library of Congress, and 267,400 were sent to subscribers to the Cooperative Card Service.

Of the Copyright Office activities having no direct relation to fees, the services of the Public Information Office are among the most important. This office received more than 31,000 telephone

calls—an increase of 23 percent over the previous year and double the number of 10 years ago—and answered 30,600 letters—an increase of 16 percent over fiscal 1971 and double the number received five years ago. In addition, 4,650 visitors came to the Public Information Office, 15 percent more than in the previous year and the highest total since the Copyright Office was moved to the Crystal Mall Annex in 1969.

OFFICIAL PUBLICATIONS

Sixteen issues of the *Catalog of Copyright Entries*, which the Copyright Office publishes in accordance with the statute, were published in fiscal 1972; another 10 issues were made ready for publication.

Over the years the Copyright Office has published at intervals a compilation of decisions of the federal and state courts involving copyright and related subjects, for official and public use. The most recent volume, published this year, is *Decisions of the United States Courts Involving Copyright, 1969-1970*, compiled and edited by Benjamin W. Rudd of the Copyright Office, and issued as *Copyright Office Bulletin* No. 37.

COPYRIGHT CONTRIBUTIONS TO THE LIBRARY OF CONGRESS

Of the more than 551,000 articles deposited for registration during the fiscal year, 324,350, approximately 60 percent, were transferred to other departments of the Library of Congress, where they were available for inclusion in its collections or for use in its various gift and exchange programs.

LEGISLATIVE DEVELOPMENTS

In addition to the statement by Senator McClellan concerning the revision bill and the enactment of the amendment on sound recordings, there were several other legislative developments in copyright and related fields.

On November 24, 1971, Public Law 92-170 was enacted to extend all subsisting copyrights in their second term that would otherwise expire before December 31, 1972, so that they would continue

in force to that date. Six earlier acts of Congress, the first enacted on September 19, 1962, had successively extended until the end of 1971 the length of all subsisting second-term copyrights that would have expired before December 31, 1971. As already mentioned, S.J. Res. 247 was introduced by Senator McClellan on June 20, 1972, to provide a further extension until the end of 1974; S.J. Res. 247 was passed by the Senate on June 30, 1972, and was pending in the House of Representatives at the end of the fiscal year.

Private Law 92-60 was enacted on December 15, 1971, granting special copyright protection, for a term of 75 years from the effective date of the act or from the date of first publication, whichever is later, to the trustees under the will of Mary Baker Eddy, their successors, and assigns in her work *Science and Health; With Key to the Scriptures*, "including all editions thereof in English and translation heretofore published, or hereafter published by or on behalf of said trustees, their successors or assigns."

Senator Harrison A. Williams, Jr., introduced on August 4, 1971, a bill (S. 2427) to amend the Communications Act of 1934 to provide for the regulation of cable television systems by establishing a nationwide format to promote the growth of cable television and a national policy for the Federal Communications Commission to follow.

JUDICIAL DEVELOPMENTS

Extension of copyright protection to sound recordings provided by the act of October 15, 1971, Public Law 92-140, was challenged in *Shaab v. Kleindienst*, 174 U.S.P.Q. 197 (D.D.C. 1972), an action brought against the Attorney General of the United States and the Librarian of Congress to enjoin implementation and enforcement of the new law. The complaint alleged that sound recordings do not qualify as writings of an author within the meaning of article I, section 8 of the Constitution, and that Congressional failure to provide for compulsory licensing of copyrighted recordings unfairly discriminates against the plaintiff and others who are subject to compulsory licensing of their musical compositions.

The complaint was dismissed on the merits by a three-judge court which held the requirements of

authorship in the copyright clause were satisfied by the provision of equipment by sound recording firms and their organization of the "diverse talents of arrangers, performers and technicians." The presence in the 1909 Copyright Law of compulsory licensing provisions for the recording of copyrighted musical compositions was noted by the tribunal, together with the absence from Public Law 92-140 of any corresponding provision applicable to the reproduction of sound recordings, and the contrast in treatment was found to be both "rational and reasonable."

The court observed that, whereas the "compulsory licensing of copyrighted musical compositions promotes the arts by permitting numerous artistic interpretations of a single written composition," no such public benefits would result from the proliferation of identical versions of recorded compositions. Moreover, "competition and the creative aspects of the industry would be impaired since established recording firms would be discouraged from investing in new arrangements and performers, if they were compelled to license their successful interpretations to those desiring to take advantage of the originator's initiative and to add nothing themselves."

Subject Matter and Scope of Copyright Protection

A three-part television show based on the life of Ezra Pound was the subject of an unsuccessful suit for infringement by the author and copyright owner of Pound's published biography in *Norman v. Columbia Broadcasting System, Inc.*, 333 F. Supp. 788 (S.D.N.Y. 1971). In dismissing the complaint, the court noted that the allegedly infringing items listed by the plaintiff actually consisted of "material constituting historical facts, material which is in the public domain, isolated words or phrases, ideas or creations of plaintiff's mind or which are not original with plaintiff and, hence, are not copyrightable." The words of Judge Learned Hand in an unreported 1919 case were quoted to further elucidate the court's view of this important point:

... not only are all the facts recorded in a history in the public domain, but, since the narration of history must proceed chronologically,—or at least, such is the

convention,—the order in which the facts are reported must be the same in the case of a second supposed author. There cannot be any such thing as copyright in the order of presentation of the facts, nor, indeed, in their selection, although into that selection may go the highest genius of authorship, for indeed, history depends wholly upon a selection from the undifferentiated mass of recorded facts. *Myers v. Mail & Express Company*, 36 C.O. Bull. 478, 479 (S.D.N.Y., Sept. 23, 1919).

Printed answer sheets created for use in conjunction with student achievement and intelligence tests and designed to be corrected by optical scanning machines were held copyrightable "writings" under the Copyright Act in *Harcourt, Brace & World, Inc. v. Graphic Controls Corp.*, 329 F. Supp. 517 (S.D.N.Y. 1971). Arguing that the answer sheets were not mere forms upon which information is to be recorded, the court noted that the sheets contain "a mix of inherent meaning, of information conveyed, and the utility for recording of responses."

The alleged infringement of a college-level textbook on economics was the issue in *McGraw-Hill, Inc. v. Worth Publishers, Inc.*, 335 F. Supp. 415 (S.D.N.Y. 1971). In denying the plaintiff's motion for a preliminary injunction, the court noted that the "verbatim duplication of any material part" of the textbook was neither alleged nor could it be proved.

Rather, the allegation is that the "pattern" of the . . . [allegedly infringed] text has been appropriated. . . . If the allegedly copied "pattern" in this case should turn out to be plaintiff's abstract ideas themselves, rather than their concrete expression, then their copyright would not be infringed. . . . This is because theories and concepts are in the public domain; the copyright laws seek "To promote the Progress of Science and Useful Arts," . . . not to stifle progress by granting intellectual monopolies.

In an action for infringement of a copyrighted textile design, *Loomskill, Inc. v. Stein & Fishman Fabrics, Inc.*, 332 F. Supp. 1288 (S.D.N.Y. 1971), the court explained its award of an injunction to the plaintiff by comparing the competing design patterns: "The effect achieved by the defendant through its design is materially the same as that of plaintiff's design and the two designs are confusingly similar. It is true that defendant's design is built around figures of dogs whereas the copyrighted design is built around cats, but apart from

and despite this difference the designs are essentially the same." The ultimate test depends upon the untrained eye of the lay observer. Thus, despite the differences pointed out by the defendant's witnesses, the "average person would consider the motif, layout and general appearance as the same even though the details are not identical."

A different situation was dealt with in *Lauratex Textile Corp. v. Citation Fabrics Corp.*, 328 F. Supp. 554 (S.D.N.Y. 1971). In this instance, the court denied plaintiff's motion for an injunction on the ground that the textile designs of both the plaintiff and the defendant were variations of a pattern in the public domain and that the defendant's design was more easily distinguished from the plaintiff's than the plaintiff's was from the public domain pattern. Assuming the validity of the plaintiff's copyright, the judge observed that the "juxtaposition of flowers, birds and bees is well-traveled terrain in design concept, and it does not take much in the way of variation to merit a new copyright. But, once this is said, the same reasoning which supports the validity of plaintiff's copyright operates to defeat the charge of copyright infringement." Hence, "if plaintiff can get a valid copyright by making a few minor variations, then defendant too can get a valid copyright by making a few more variations on the pattern."

A gold-encrusted jeweled pin in the form of a bee reappeared on the judicial scene in *Herbert Rosenthal Jewelry Corp. v. Kalpakian*, 446 F. 2d 738 (9th Cir. 1971). Ruling against the plaintiff on the infringement issue, despite the substantial similarity of the competing designs, the court adjudged the jeweled pin to be "an 'idea' that defendants were free to copy." Furthermore, the court declared that there "is no greater similarity between the pins of plaintiff and defendants than is inevitable from the use of jewel-encrusted bee forms in both." In the court's estimation, the apparent indistinguishability of the "idea" and its "expression" presented special difficulty. "When the 'idea' and its 'expression' are thus inseparable, copying the 'expression' will not be barred because protection for the 'expression' in such circumstances would confer a monopoly of the 'idea' upon the copyright owner free of the conditions and limitations imposed by the patent law."

The copyrightability of scale-model airplanes was upheld in *Monogram Models, Inc. v. Industro Motive Corp.*, 448 F. 2d 284 (6th Cir. 1971), a case in which the significance of similarities between plastic scale models was an important issue. In the court's view, "the fact that scale models were of the same actual airplanes and that similarities were explained in terms of common industrial practices tends to raise a genuine issue of fact as to whether the similarities were simple resemblances, being a natural by-product of the expression of identical ideas, or copyright infringement."

Dismissal of an action for infringement of common law rights in architectural plans used to erect a fabricating mill for steel joists was based on a finding that the drawings had been given general publication without any reservation of copyright, in *Nucor Corp. v. Tennessee Forging Steel Service, Inc.*, 339 F. Supp. 1305 (W.D. Ark. 1972). The court took pains to observe that even "when the common law copyright has been held to be in effect it has not been extended to such an extent as to prevent the erection of buildings that are merely similar."

The alleged infringement of copyrighted residential house plans was the basis of suit in *Imperial Homes Corp. v. Lamont*, 458 F. 2d 895 (5th Cir. 1972). Remanding the case to the trial court for resolution of factual disputes, the opinion cautioned that "no copyrighted architectural plans under §5(i) may clothe their author with the exclusive right to reproduce the dwelling pictured," but, on the other hand, the "exclusive right to copy what is copyrighted belongs to the architect, even though the plans give him no unique claim on any feature of the structure they detail."

Publication

In an action for infringement of a copyrighted ornamental planter, *Hub Floral Corp. v. Royal Brass Corp.*, 454 F. 2d 1226 (2d Cir. 1972), the trial court ruled against the plaintiff for its failure to comply with the registration requirements of the law applicable to published works. Sixty samples of the planter had been distributed to salesmen and photographs had been inserted in a

catalog, but the manufacturer had apparently not delivered any copies intended for public sale. Reversing the judgment on appeal, the upper court said: "It has long been settled that the taking of orders through employment of samples, catalogs, or advertisements of a work does not amount to publication of the work."

Publication of architectural plans was an issue in the previously mentioned case of *Nucor Corp. v. Tennessee Forging Steel Service, Inc.*, in which the court found that "by giving the approximately thirty sets of plans to bidders; by placing no limitation on their circulation, by permitting any and all interested people to see, visit and inspect the building in all stages of construction and the entire plant when in operation after construction was completed, as well as by its conduct and advertising campaign Nucor gave the plans general publication; and after general publication there was no protected common law copyright."

In *International Tape Manufacturers Association v. Gerstein*, 174 U.S.P.Q. 198 (S.D. Fla. 1972), the survival of common law rights in recorded sounds was one of the issues involved in a successful challenge of a state law against record piracy. On the question of publication, the court held "that authorized dissemination of recorded sounds manufactured from a master disc constitutes a 'general publication' of both the underlying composition and the performance sufficient to deprive the owner of any common law copyright to which he might have been entitled."

The opinion pointed out that once "the records and tapes are generally distributed to the public, the performances embodied within the recorded sounds lose common law copyright protection." Consequently, the argument that "the Florida statute can permissibly regulate common law copyright must be denied because there is no common law copyright to persons who distribute such sound recordings."

Notice of Copyright

The case of *Puddu v. Buonamici Statuary, Inc.*, 450 F. 2d 401 (2d Cir. 1971) involved the adequacy of the copyright notice on 12 published statuettes of elves carrying various musical instruments. The plaintiffs had endeavored to comply

with the statutory notice provisions by placing on the base of each figure the symbol © and the letters "ARP," and on the back of the statuettes certain markings "presumably purporting," in the words of the trial judge, "to be the name, Angelo R. Puddu, but which I cannot decipher, even with the aid of a powerful reading glass."

The fact that a certificate of doing business under the name of "ARP" had been filed with the New York County Clerk was held insufficient proof that the plaintiffs were actually trading as "ARP." It was also argued unsuccessfully that the defendant knew of the use of the name "ARP" prior to infringement because of an earlier suit for unfair competition. The court rejected this contention and upheld the dismissal of the complaint.

Registration

In an action for libel, *Legros v. Jeppson*, 171 U.S.P.Q. 426 (N.Y. Sup. Ct., July 7, 1971), the date of first publication of the offending book was the principal issue. Pointing out that publication "for the purpose of defamation and for the purpose of copyright may not tender the same legal issue," the court observed that "plaintiff's reliance on the date of publication set forth in the copyright application as conclusive proof of the publication date in the libel action is misplaced." The date of publication in the records of the Copyright Office "would appear to be merely one of the factors to be considered in determining when, according to the practice in the trade, publication is deemed to have occurred."

In the previously mentioned case of *Monogram Models, Inc. v. Industro Motive Corp.*, important factual disputes between the litigants occasioned a reminder from the court that, although the certificate of copyright registration constitutes prima facie evidence of the facts contained therein, including the sufficiency of the notice on the copies of the work at the time of first publication, it is a presumption that is "clearly rebuttable." However, in *Lauratex Textile Corp. v. Citation Fabrics Corp.*, also mentioned earlier, the court assumed that the evidentiary presumption of the certificate extended beyond the facts and constituted "evidence of a valid copyright." In another case cited elsewhere, *Consolidated Music Pub-*

lishers, Inc. v. Hansen Publications, Inc., 339 F. Supp. 1161 (S.D.N.Y. 1972), a preliminary injunction was awarded on motion because the plaintiff's book "easily satisfies the test of copyrightability" when the certificate of registration is "accorded the benefit of the statutory presumption of copyright validity."

The defendant in *Harcourt, Brace & World, Inc. v. Graphic Controls Corp.* relied on the landmark decision in *Baker v. Selden*, 101 U.S. 99 (1879), and Section 202.1(c) of the Regulations of the Copyright Office concerning blank forms and other works designed solely to record information, to support the contention that printed answer sheets used for test scoring and intended for correction by optical scanning machines were forms usable only for recording information and, hence, not copyrightable "writings." Rejecting these arguments, the court held the answer sheets to be copyrightable, because, among other things (as the court was led to believe), "the record indicates that the Copyright Office has registered separate answer sheets for copyright and thus has construed its own regulations contrary to the interpretation urged by the defendant." The court made a further observation that "in light of the fact that the Copyright Office regards computer programs as copyrightable. . . , it appears logical to conclude that the practice and policy of the Copyright Office is consciously to accept answer sheets for registration."

In *Herbert Rosenthal Jewelry Corp. v. Kalpakian*, cited earlier, the court rejected as too broad the plaintiff's contention that registration of its jeweled pin in the form of a bee "entitles it to protection from the manufacture and sale by others of any object that to the ordinary observer is substantially similar in appearance." Contrasting the patent grant which "is carefully circumscribed by substantive and procedural protections" with copyright registration which "confers no right at all to the conception reflected in the registered subject matter," the court noted that, aside from a prohibition against plagiarism of another's effort, "there is no requirement that the work differ substantially from prior works or that it contribute anything of value. . . . There is no administrative investigation or determination of the validity of the claim. A certificate is refused only if the

object falls outside the broad category of matter subject to copyright registration."

Ownership and Transfer of Rights

The ownership of copyright in individual articles published in copyrighted medical journals was an important issue in *Williams & Wilkins Company v. United States*, 172 U.S.P.Q. 670 (Ct. Cl. 1972), an action for copyright infringement arising from the unauthorized photocopying of articles by the National Institutes of Health and the National Library of Medicine. Conceding the plaintiff's ownership of copyright in the journals in which the articles appeared, the defendant disputed the plaintiff's proprietary interest in the articles on the grounds that their authors "did not make written assignment to plaintiff of their proprietary interest in the manuscripts from which the articles stemmed. . . ." In his written opinion the commissioner rejected the contention, pointing out that "the only reasonable inference (there being no evidence to the contrary) is that the authors assigned to plaintiff, ab initio and by implication, the ownership rights to their manuscripts, and did not grant to plaintiff a mere license to publish."

The copyrighted song "Who's Afraid of the Big Bad Wolf?" reappeared in litigation this year on appeal from the lower court's judgment for the defendant on the pivotal issue of ownership rights. *Picture Music, Inc. v. Bourne, Inc.*, 457 F. 2d 1213 (2d Cir. 1972). The judgment was affirmed by the upper court on the grounds that the contribution of the songwriter, the plaintiff-appellant's predecessor in interest, was work done for hire within the meaning of that term as used in §24 of the Copyright Act. In determining whether a work was actually done for hire, the opinion noted that the "absence of a fixed salary, however, is never conclusive, . . . nor is the freedom to do other work, especially in an independent contractor situation. . . ." Holding that the renewal rights accrued exclusively to defendant-appellee as "proprietor," Judge Hays described the role played by the employers of the songwriter: "They controlled the original song, they took the initiative in engaging . . . [the songwriter] to adapt it, and they had the power to accept, reject, or modify her work. She in turn accepted payment

for it without protest, except as to the amount, for 27 years. That she acted in the capacity of an independent contractor does not preclude a finding that the song was done for hire."

Infringement and Remedies

The defense in the previously noted case of *Williams & Wilkins Company v. United States* argued unsuccessfully that the act of making single copies of book or periodical material is insufficient to incur liability, and that, to be actionable, the "copying" must include "printing" (or "reprinting") and the "publishing" of multiple copies.

The commissioner found the statutory proscription of unauthorized duplication a matter more of substance than of form: " 'Printing' and 'reprinting' connote making a duplicate original, whether by printing press or a more modern method of duplication. . . . 'Publishing' means disseminating to others, which defendant's libraries clearly did when they distributed photocopies to requesters and users." Moreover, "there is nothing in the copyright statute or the case law to distinguish, in principle, the making of a single copy of a copyrighted work from the making of multiple copies. . . . And the courts have held that duplication of a copyrighted work, even to make a single copy, can constitute infringement."

The mere fact that libraries may be motivated by high purpose does not exempt them from liability for copying. Such an exemption "is a matter for Congress, not the courts, to consider for it involves questions of public policy aptly suited to the legislative process."

The determination of what constitutes a "non-dramatic" performance was crucial in two infringement actions involving the rock opera "Jesus Christ Superstar": *Rice v. American Program Bureau*, 416 F. 2d 685 (2d Cir. 1971), and *Robert Stigwood Group Limited v. Sperber*, 457 F. 2d 50 (2d Cir. 1972). In the earlier case, the court held that it was not a "dramatic" performance of the opera to present separate songs, fragments of songs, or excerpts from the opera, including lyrics in the original works, provided such songs or excerpts are not accompanied by "words, pantomime, dance, costumes, or scenery that will lend a

visual representation of the work from which the music is taken."

The nondramatic performing rights of compositions in the licensed repertory of the American Society of Composers, Authors, and Publishers were also involved in the later suit, in which the court held that the performance of 20 of the total number of 23 selections, all but one of which were in the same sequence as in the opera, is a "dramatic" performance. Moreover, the absence of scenery or costumes "does not ipso facto prevent it from being dramatic." The court explained that even "the presentation of five or six songs could under certain circumstances, develop an essential portion of the drama, . . . thus infringing on a part of the opera. The sequence of the songs seems to be the linchpin in this case. If the songs are not sung in sequence, . . . and there are no costumes, scenery, or intervening dialogue, we are confident that the resulting performance could not tell the story. . . ."

In *Duchess Music Corp. v. Stern*, 458 F. 2d 1305 (9th Cir. 1972); *petition for cert. filed sub nom. Rosner v. Duchess Music Corp.*, 40 U.S.L.W. 3577 (U.S. May 26, 1972) (No. 71-1551), an action brought by the owners of copyrighted musical compositions against the makers of allegedly "pirate" sound recordings, the defendants invoked the compulsory license provisions of the Copyright Act of 1909, filing a Notice of Intention to Use, and acknowledging plans to continue the manufacture of taped music by the same duplicating methods used in the past. Reversing the lower tribunal's decision which had been favorable to the defendants on this point, the court, referring to §1(e) of the Copyright Act, said: "The statute provides that anyone who properly invokes the license provision 'may make *similar use* [italics added] of the copyrighted work.' . . . [Defendant] Rosner admits that she duplicates appellants' copyrighted compositions. She does not make 'similar use' of them, she makes exact and identical copies of them. This is clearly outside the scope of the compulsory license scheme."

Conceding that the defendants had the right to record their own original performances of the copyrighted music, the court denied their "right to copy," pointing out that "Sears [Roebuck & Co. v. Stiffel Co., 376 U.S. 225 (1964)] and Compco

[*Corp. v. Day-Brite Lighting, Inc.*, 376 U.S. 234 (1964)] do not sanction [defendant] Rosner's outright appropriation, in violation of copyright, of the actual performances contained on appellants' records."

Construing the remedial provisions of §101(c) and (d), the court reversed the district judge's order for the return of all impounded "tape recording equipment and machinery, as well as . . . all blank tapes, cartridges, cassettes, labels or any unmarked or unprinted packaging materials," saying that there is no reason to limit the items to be impounded and destroyed to only those "items embodying an identifiable impression of the copyrighted work." If the articles seized are infringing copies or provide the means for making infringing copies, the court argued, neither "the statute nor the Supreme Court rules give the District Court any discretion to determine what to impound or what to destroy." Referring to the 1909 act, the court observed: "Congress intended to impound and destroy 'the whole of the paraphernalia,' including those items which may be used for other purposes."

In dissent, Judge Byrne argued that prior to the recent amendment to the Copyright Law protecting sound recordings [Public Law 92-140], the unauthorized production of phonograph records and tapes did not violate federal copyright law, assuming there had been compliance with the compulsory license provisions. Defendant Rosner both complied with the federal law and took advantage of the loophole it provided when she filed a Notice of Intention to Use. Observed the judge: "Because I believe this to be the very 'loophole' the new amendments are intended to close, I cannot concur in the majority opinion's disposition of the compulsory license issue."

The question of whether the reception by cable TV systems of broadcast television signals embodying copyrighted material and the transmission of those signals to the homes of subscribers constitute infringement was presented to the court in *Columbia Broadcasting System, Inc. v. Teleprompter Corporation*, 173 U.S.P.Q. 778 (S.D.N.Y. 1972). The plaintiff sought to distinguish this case from *Fortnightly Corp. v. United Artists Television, Inc.*, 392 U.S. 390 (1968) on the grounds that the defendant here also origi-

nated a substantial amount of its own programing, and that it relayed the distant broadcast signals to its subscribers who could not have received them otherwise. The court observed that in originating its own programing the defendant functions as a broadcaster, but that its reception and transmission of broadcast signals is a separable function and is not itself a performance of plaintiff's works and hence not an infringement of their copyrights.

The court saw no valid distinction between this case and *Fortnightly*. Using the criteria set forth in *Fortnightly* to determine whether cable TV systems "perform" the works relayed to their viewers within the meaning of section 1 of the Copyright Act, the court contrasted the latitude of the broadcaster "which controls program content and scheduling" with the cable systems which "receive the signals of the television stations they carry continuously, and distribute them without editing or deletion," and in general "do not otherwise choose the sequence or content of programs they receive and carry to subscribers." Broadcasters, on the other hand, "determine the nature of programs to be viewed and the times they will be shown."

Unfair Competition and Other Theories of Protection

An interesting legal problem was presented in *Lugosi v. Universal Picture Company, Inc.*, 172 U.S.P.Q. 541 (Cal. Super. Ct. 1972), an action for breach of contract brought by the heirs of the late Bela Lugosi who sought to recover profits derived from the commercial licensing of the use of the Count Dracula character. The court held that "Bela Lugosi's interest or right in his likeness and appearance as Count Dracula was a property right of such character and substance that it did not terminate with his death but descended to his heirs." Contrasting the right of property in a character with the right of privacy which ends with the death of the holder of the right, the court set forth what it considered the better view, "that a celebrity's interest in his name, appearance, likeness and personality which has a publicity pecuniary value, should be considered a *property right* separate and apart from the right of privacy, and that a person who, without authorization, appropriates such a person's name, appearance, likeness

or personality, has appropriated the property of such person and has caused a pecuniary loss for which damages may be recovered."

In *Riback Enterprises, Inc. v. Denham*, 452 F. 2d 849 (2d Cir. 1971), the defendant relied upon the *Sears* and *Compco* decisions to attack the lower court's injunction against the sale of three-page fold-out greeting cards "which have the same format" as those of the plaintiff. The court of appeals set the preliminary injunction aside, noting that "plaintiff has no more right to keep defendants from selling greeting cards because they imitate the format of its... [own] than Stiffel Company or Day-Brite had to prevent competitors from selling imitations of their pole lamps and lighting fixtures."

The *Sears* and *Compco* cases were also discussed by the court in *Tomlin v. Walt Disney Productions*, 96 Cal. Rptr. 118 (Cal. Dist. Ct. App. 1971), an action for unfair competition and misappropriation by the composer of the song entitled "The Love Bug Will Bite You" against the producer of a motion picture entitled "The Love Bug" featuring a Volkswagen automobile having human attributes. Affirming summary judgment for the defendant, the court said: "The title to a literary or musical composition is not protectible by copyright," although "the owner of such a composition has been held to acquire a property right in the title when that title has acquired a 'secondary meaning' identifying it in the public mind with the literary work." More specifically, "a broad permanent injunction" against the use of the plaintiff's title by Disney predicated upon a theory of misappropriation "cannot be constitutionally countenanced in light of *Sears* and *Compco*." Moreover, observed the court: "Mere priority of use does not create or establish a 'secondary meaning' for a title."

The constitutionality of a recently enacted Florida statute imposing criminal penalties for the "piracy" of sound recordings when copies are sold for profit was the key issue in *International Tape Manufacturers Association v. Gerstein*, cited earlier, a class action brought by an unincorporated voluntary association seeking declaratory and injunctive relief from future prosecutions threatened under the state law. Holding the statute unconstitutional "by virtue of the Supremacy

Clause," and awarding a permanent injunction against initiating prosecutions pursuant to it, the court observed that a "state law rendering criminal the unauthorized manufacture and sale of sound recordings flies in the face of *Sears and Compco*, regardless of whether Congress has preempted the field."

The court explained that it could not "accept the distinction drawn between physical appropriation and copying" and thus must take issue with the result of *Tape Industries Association of America v. Younger*, 316 F. Supp. 340 (C.D. Cal. 1970); appeal dismissed, 401 U.S. 902 (1971), which upheld a similar statute in reliance upon the misappropriation theory enunciated in *International News Service v. Associated Press*, 248 U.S. 215 (1918). Conceding the possibility "that the practice of pirating sound recordings is unsavory or underhanded," the opinion emphasized the fact that "the federal law clearly permitted such practices prior to the enactment of 92-140 [October 15, 1971]."

Commenting on the decision in *Duchess Music Corp. v. Stern*, a previously mentioned case which proscribed use of the compulsory license provisions of the federal copyright laws as a vehicle for copying recorded sounds, the court said: "This interpretation of the compulsory license provision is based on the misconception that because an underlying musical composition is copyrighted, the unauthorized reproduction of the performance embodied in the sound recording of that composition is, and ought to be, prohibited by the federal copyright laws. If the law were as that Court stated, then record pirates could not exist," but in fact, "the law is not what the Court stated. The Court held that *Sears and Compco* did not apply because defendant duplicated the records and tapes, thus 'stealing' the works of others. . . ."

The constitutionality of California's criminal statute against tape piracy was challenged in *Goldstein v. State of California*, No. Cr. A 10672 (Cal. Super. Ct., App. Dep't, Nov. 12, 1971). A final review and ruling on this significant question was assured on May 30, 1972, when the U.S. Supreme Court granted a writ of certiorari (406 U.S. 956).

In *Columbia Broadcasting System, Inc. v. Custom Recording Company, Inc.*, 189 S.E. 2d

305 (Sup. Ct., S.C. May 29, 1972), an action for the alleged "pirating" of performances embodied in phonograph recordings, one of the defenses was a state statute abolishing common law rights in commercially disseminated sound recordings in the public domain. Reversing the trial judge who had refused a temporary injunction, the court concluded that "plaintiff's legal rights" had been violated by "parasitic acts" which were "wrongful." Referring to the misappropriation theory set forth in the *International News Service* case and others, including the previously mentioned *Tape Industries Association of America v. Younger*, the opinion found this line of argument "persuasive if not indeed mandatory," notwithstanding the fact that the "law of unlawful exploitation" is "somewhat confused" as between the alternatives offered by *International News Service* on the one hand, and *Sears and Compco* on the other.

INTERNATIONAL COPYRIGHT DEVELOPMENTS

Among the outstanding events of the year were the diplomatic conferences to revise the Universal Copyright Convention (UCC) and the Berne Convention, held simultaneously on July 5-24, 1971, in Paris. Twenty-six countries, including the United States, signed the revised Universal Copyright Convention; the revised Berne Convention, of which the United States is not a member, was signed by 28 countries. The U.S. delegation, headed by Abraham L. Kaminstein, then register of copyrights, and Bruce C. Ladd, Jr., deputy assistant secretary of state for commercial affairs and business activities, as cochairmen, participated actively in the UCC revision conference. The delegation attended the Berne revision conference as observers.

George D. Cary, the new register of copyrights, as well as Mr. Ladd and Mr. Kaminstein, testified in support of ratification at hearings in July before the Foreign Relations Committee. The Senate on August 14, 1972, by a vote of 67 yeas to no nays, advised and consented to ratification of the revised UCC.

This was the first revision of the Universal Copyright Convention, which was established in 1952 and came into force in 1955. The new text specifically enumerates certain basic rights of authors,

including the exclusive rights of reproduction by any means, public performance, and broadcasting. Concomitantly, special exceptions are permitted for developing countries to allow them to institute procedures for the compulsory licensing of translations and reproductions of certain works for educational purposes, if the works are not made available within a stated time in the country concerned. The revised convention requires no implementing legislation here, since U.S. law is already in accord with its provisions. By its terms the new text will not enter into force until 12 countries adhere to it.

Corresponding exceptions for developing countries were provided for in the 1971 revision of the Berne Convention, displacing the wider exceptions in the Protocol to the 1967 Stockholm revision of the Berne Convention, which had proved unacceptable. Although the United States is not a member of Berne, the revised Berne Convention will not become effective until the United States, the United Kingdom, France, and Spain have ratified the revised UCC.

The 1971 revision of the two conventions is designed to resolve the controversy between developing and developed countries that had been generated by the 1967 Stockholm Protocol and had threatened to disrupt the international copyright structure. The resolution worked out at the 1971 revision conferences was generally acceptable to the representatives of both groups of countries, and it reestablishes the balance between the two conventions.

On October 29, 1971, the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms came into being at Geneva, as the result of a diplomatic conference convened jointly by UNESCO and the World Intellectual Property Organization (WIPO). Intended to halt the pirating of sound recordings, the convention was ultimately signed by 31 countries, including the United States, and will enter into force three months after deposit of the fifth instrument of ratification, acceptance, or

accession. The U.S. delegation was led by Bruce C. Ladd, Jr., of the State Department and George D. Cary, then acting register of copyrights.

A second meeting of governmental experts on copyright and related problems presented by space satellite transmissions was held in Paris in May 1972, under the joint auspices of UNESCO and WIPO. The U.S. delegation included the register of copyrights. An amended draft convention was prepared, which will be the basis for deliberations at a third meeting of the governmental experts in 1973, with a view toward completion of the convention at a diplomatic conference in 1974.

The numerous changes that occurred in international copyright relations are reflected in the table appearing in the appendix. On December 13, 1971, the director-general of UNESCO received a communication from the government of Fiji, notifying him that it considered itself bound by the Universal Copyright Convention from its date of independence, October 10, 1970; the Universal Copyright Convention had been extended to the territory of Fiji by the United Kingdom between March 1, 1962, and the date of independence. The instrument of accession by Morocco to the UCC and annexed protocols 1, 2, and 3 were deposited with the director-general of UNESCO on February 8, 1972; the convention came into force, in respect of Morocco, on May 8, 1972, three months after the deposit of the instrument of accession. Fiji and Morocco are the 61st and 62d countries to adhere to the Universal Copyright Convention. Four countries became independent during the year and were added to the table: Bahrain, Qatar, United Arab Emirates (formerly the Trucial States), and Bangladesh (formerly East Pakistan). Two countries changed their names and will now be found in different places in the table: Congo (Kinshasa) is now Zaire; and Ceylon is now Sri Lanka.

Respectfully submitted,

GEORGE D. CARY.
Register of Copyrights

International Copyright Relations of the United States as of June 30, 1972

Code: UCC Party to the Universal Copyright Convention, as is the United States. The effective date is given for each country. The effective date for the United States was September 16, 1955.

BAC Party to the Buenos Aires Convention of 1910, as is the United States.

Bilateral Bilateral copyright relations with the United States by virtue of a proclamation or treaty.

Unclear Became independent since 1943. Has not established copyright relations with the United States, but may be honoring obligations incurred under former political status.

None No copyright relations with the United States.

Country	Status of copyright relations	Country	Status of copyright relations
Afghanistan	None	Dominican Republic	BAC
Albania	None	Ecuador	UCC June 5, 1957; BAC
Algeria	Unclear	Egypt	None
Andorra	UCC Sept. 16, 1955	El Salvador	Bilateral by virtue of Mexico City Convention, 1902
Argentina	UCC Feb. 13, 1958; BAC; Bilateral	Equatorial Guinea	Unclear
Australia	UCC May 1, 1969; Bilateral	Ethiopia	None
Austria	UCC July 2, 1957; Bilateral	Fiji 2	UCC Oct. 10, 1970
Bahrain	None	Finland	UCC April 16, 1963; Bilateral
Bangladesh	Unclear	France	UCC Jan. 14, 1956; Bilateral
Barbados	Unclear	Gabon	Unclear
Belgium	UCC Aug. 31, 1960; Bilateral	Gambia	Unclear
Bhutan	None	Germany	Bilateral; UCC with Federal Republic of Germany, Sept. 16, 1955
Bolivia	BAC	Ghana	UCC Aug. 22, 1962
Botswana	Unclear	Greece	UCC Aug. 24, 1963; Bilateral
Brazil	UCC Jan. 13, 1960; BAC; Bilateral	Guatemala	UCC Oct. 28, 1964; BAC
Bulgaria	None	Guinea	Unclear
Burma	Unclear	Guyana	Unclear
Burundi	Unclear	Haiti	UCC Sept. 16, 1955; BAC
Cambodia 1	UCC Sept. 16, 1955	Holy See	UCC Oct. 5, 1955
Cameroon	Unclear	Honduras	BAC
Canada	UCC Aug. 10, 1962; Bilateral	Hungary	UCC Jan. 23, 1971; Bilateral
Central African Republic	Unclear	Iceland	UCC Dec. 18, 1956
Chad	Unclear	India	UCC Jan. 21, 1958; Bilateral
Chile	UCC Sept. 16, 1955; BAC; Bilateral	Indonesia	Unclear
China	Bilateral	Iran	None
Colombia	BAC	Iraq	None
Congo	Unclear	Ireland	UCC Jan. 20, 1959; Bilateral
Costa Rica	UCC Sept. 16, 1955; BAC; Bilateral	Israel	UCC Sept. 16, 1955; Bilateral
Cuba	UCC June 18, 1957; Bilateral	Italy	UCC Jan. 24, 1957; Bilateral
Cyprus	Unclear	Ivory Coast	Unclear
Czechoslovakia	UCC Jan. 6, 1960; Bilateral	Jamaica	Unclear
Dahomey	Unclear	Japan	UCC April 28, 1956
Denmark	UCC Feb. 9, 1962; Bilateral	Jordan	Unclear
		Kenya	UCC Sept. 7, 1966
		Korea	Unclear

Country	Status of copyright relations	Country	Status of copyright relations
Kuwait	Unclear	Portugal	UCC Dec. 25, 1956; Bilateral
Laos	UCC Sept. 16, 1955	Qatar	None
Lebanon	UCC Oct. 17, 1959	Romania	Bilateral
Lesotho	Unclear	Rwanda	Unclear
Liberia	UCC July 27, 1956	San Marino	None
Libya	Unclear	Saudi Arabia	None
Liechtenstein	UCC Jan. 22, 1959	Senegal	Unclear
Luxembourg	UCC Oct. 15, 1955; Bilateral	Sierra Leone	Unclear
Madagascar ³	Unclear	Singapore	Unclear
Malawi	UCC Oct. 26, 1965	Somalia	Unclear
Malaysia	Unclear	South Africa	Bilateral
Maldives	Unclear	Soviet Union	None
Mali	Unclear	Spain	UCC Sept. 16, 1955; Bilateral
Malta	UCC Nov. 19, 1968	Sri Lanka (Ceylon)	Unclear
Mauritania	Unclear	Sudan	Unclear
Mauritius ⁴	UCC Mar. 12, 1968	Swaziland	Unclear
Mexico	UCC May 12, 1957; BAC; Bilateral	Sweden	UCC July 1, 1961; Bilateral
Monaco	UCC Sept. 16, 1955; Bilateral	Switzerland	UCC Mar. 30, 1956; Bilateral
Morocco	UCC May 8, 1972	Syria	Unclear
Nauru	Unclear	Tanzania	Unclear
Nepal	None	Thailand	Bilateral
Netherlands	UCC June 22, 1967; Bilateral	Togo	Unclear
New Zealand	UCC Sept. 11, 1964; Bilateral	Tonga	None
Nicaragua	UCC Aug. 16, 1961; BAC	Trinidad and Tobago	Unclear
Niger	Unclear	Tunisia	UCC June 19, 1969
Nigeria	UCC Feb. 14, 1962	Turkey	None
Norway	UCC Jan. 23, 1963; Bilateral	Uganda	Unclear
Oman	None	United Arab Emirates	None
Pakistan	UCC Sept. 16, 1955	United Kingdom	UCC Sept. 27, 1957; Bilateral
Panama	UCC Oct. 17, 1962; BAC	Upper Volta	Unclear
Paraguay	UCC Mar. 11, 1962; BAC	Uruguay	BAC
Peru	UCC Oct. 16, 1963; BAC	Venezuela	UCC Sept. 30, 1966
Philippines	Bilateral; UCC status undetermined by UNESCO (Copyright Office considers that UCC relations do not exist.)	Vietnam	Unclear
Poland	Bilateral	Western Samoa	Unclear
		Yemen (Aden)	Unclear
		Yemen (San'a)	None
		Yugoslavia	UCC May 11, 1966
		Zaire	Unclear
		Zambia	UCC June 1, 1965

¹ Cambodia is also known as the Khmer Republic.

² On December 13, 1971, UNESCO was notified by the Government of Fiji that it considers itself bound by the UCC from October 10, 1970, its date of independence.

³ Madagascar is also known as the Malagasy Republic.

⁴ On August 20, 1970, UNESCO was notified by the Government of Mauritius that it considers itself bound by the UCC from March 12, 1968, its date of independence.

Registrations by Subject Matter Class, Fiscal Years 1968-72

Class	Subject matter of copyright	1968	1969	1970	1971	1972
A	Books (including pamphlets, leaflets, etc.)	85,189	83,603	88,432	96,124	103,231
B	Periodicals (issues)	81,773	80,706	83,862	84,491	84,686
	(BB) Contributions to newspapers and periodicals	2,026	1,676	1,943	1,884	2,004
C	Lectures, sermons, addresses	1,050	1,155	1,669	1,855	1,940
D	Dramatic or dramatico-musical compositions	3,214	3,213	3,352	3,553	3,838
E	Musical compositions	80,479	83,608	88,949	95,202	97,482
F	Maps	2,560	2,024	1,921	1,677	1,633
G	Works of art, models, or designs	5,236	5,630	6,807	7,916	7,901
H	Reproductions of works of art	2,785	2,489	3,036	3,047	3,434
I	Drawings or plastic works of a scientific or technical character	628	552	835	924	1,059
J	Photographs	734	936	1,171	1,160	1,140
K	Prints and pictorial illustrations	3,109	2,837	3,373	4,209	4,524
	(KK) Commercial prints and labels	5,972	4,798	5,255	4,424	4,118
L	Motion-picture photoplays	1,450	1,066	1,244	1,169	1,816
M	Motion pictures not photoplays	1,472	1,298	1,301	1,226	1,388
N	Sound recordings					1,141
R	Renewals of all classes	25,774	25,667	23,316	20,835	23,239
	Total	303,451	301,258	316,466	329,696	344,574

Number of Articles Deposited, Fiscal Years 1968-72

Class	Subject matter of copyright	1968	1969	1970	1971	1972
A	Books (including pamphlets, leaflets, etc.)	168,452	164,958	174,519	189,887	203,875
B	Periodicals	162,988	160,707	166,976	168,114	168,463
	(BB) Contributions to newspapers and periodicals	2,026	1,676	1,943	1,884	2,004
C	Lectures, sermons, addresses	1,050	1,155	1,669	1,855	1,940
D	Dramatic or dramatico-musical compositions	3,599	3,563	3,751	3,993	4,216
E	Musical compositions	101,704	103,164	110,010	116,537	117,425
F	Maps	5,120	4,047	3,840	3,352	3,264
G	Works of art, models, or designs	9,016	9,688	11,736	13,894	13,590
H	Reproductions of works of art	5,440	4,811	6,046	6,056	6,821
I	Drawings or plastic works of a scientific or technical character	992	839	1,267	1,419	1,614
J	Photographs	1,239	1,565	2,080	2,056	2,063
K	Prints and pictorial illustrations	6,212	5,671	6,740	8,417	9,036
	(KK) Commercial prints and labels	11,909	9,595	10,510	8,846	8,235
L	Motion-picture photoplays	2,828	2,100	2,448	2,305	3,593
M	Motion pictures not photoplays	2,841	2,471	2,460	2,318	2,648
N	Sound recordings					2,282
	Total	485,416	476,010	505,995	530,933	551,069

*Number of Articles Transferred to Other Departments of the Library of Congress*¹

Class	Subject matter of articles transferred	1968	1969	1970	1971	1972
A	Books (including pamphlets, leaflets, etc.)	105,329	90,435	92,664	107,468	² 115,242
B	Periodicals	172,193	169,671	175,301	176,259	176,161
	(BB) Contributions to newspapers and periodicals	2,026	1,676	1,943	1,884	2,004
C	Lectures, sermons, addresses	0	0	0	0	0
D	Dramatic or dramatico-musical compositions	313	221	100	41	226
E	Musical compositions	24,485	25,021	25,235	25,567	21,275
F	Maps	5,127	4,102	3,946	3,352	3,264
G	Works of art, models, or designs	160	173	286	376	1,252
H	Reproductions of works of art	598	714	431	845	1,620
I	Drawings or plastic works of a scientific or technical character	2	2	0	0	0
J	Photographs	37	28	28	42	65
K	Prints and pictorial illustrations	643	819	370	614	499
	(KK) Commercial prints and labels	38	350	98	409	220
L	Motion-picture photoplays	³ 142	52	63	4	64
M	Motion pictures not photoplays	³ 542	132	153	111	183
N	Sound recordings					2,282
	Total	³ 311,635	293,396	300,618	316,972	324,357

¹ Extra copies received with deposits and gift copies are included in these figures. For some categories, the number of articles transferred may therefore exceed the number of articles deposited as shown in the preceding chart.

² Of this total, 33,000 copies were transferred to the Exchange and Gift Division for use in its programs.

³ Adjusted figure.

Gross Cash Receipts, Fees, and Registrations, Fiscal Years 1968-72

	Gross receipts	Fees earned	Registrations	Increase or decrease in registrations
1968	\$1,940,758.60	\$1,865,488.82	303,451	+9,045
1969	2,011,372.76	1,879,831.30	301,258	-2,193
1970	2,049,308.99	1,956,441.37	316,466	+15,208
1971	2,089,620.19	2,045,457.52	329,696	+13,230
1972	2,313,638.14	2,177,064.86	344,574	+14,878
Total	10,404,698.68	9,924,283.87	1,595,445	

Summary of Copyright Business

Balance on hand July 1, 1971	\$ 513,047.07
Gross receipts July 1, 1971, to June 30, 1972	2,313,638.14
Total to be accounted for	2,826,685.21
Refunded	\$ 100,617.51
Checks returned unpaid	8,971.44
Deposited as earned fees	2,180,838.22
Balance carried over July 1, 1972	
Fees earned in June 1972 but not deposited until	
July 1972	\$176,529.82
Unfinished business balance	91,248.33
Deposit accounts balance	265,615.25
Card service	2,864.64
	<u>536,258.04</u>
	<u>2,826,685.21</u>

	Registrations	Fees earned
Published domestic works at \$6	220,715	\$1,324,290.00
Published foreign works at \$6	4,565	27,390.00
Unpublished works at \$6	85,032	510,192.00
Renewals at \$4	23,239	92,956.00
Total registrations for fee	333,551	1,954,828.00
Registrations made under provisions of law permitting registration without payment of fee for certain works of foreign origin	11,022	
Registrations made under Standard Reference Data Act, P.L. 90-396 (15 U.S.C. §290), for certain publications of U.S. government agencies for which fee has been waived	1	
Total registrations	<u>344,574</u>	
Fees for recording assignments		39,053.50
Fees for indexing assignments		15,535.50
Fees for recording notices of use		24,136.00
Fees for recording notices of intention to use		55,727.50
Fees for certified documents		10,402.00
Fees for searches made		68,095.00
Card Service		9,287.36
Total fees exclusive of registrations		<u>222,236.86</u>
Total fees earned		<u>2,177,064.86</u>